CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

July 25, 2003

S. 1046
Preservation of Localism, Program Diversity, and Competition in Television Broadcast Service Act of 2003

As ordered reported by the Senate Committee on Commerce, Science, and Transportation on June 19, 2003

SUMMARY

S. 1046 would change current law and existing regulations concerning ownership of television, radio, and newspapers. The bill also would clarify the frequency and nature of the Federal Communication Commission's (FCC's) reviews of those regulations. CBO estimates that implementing S. 1046 would cost the FCC less than $500,000 over the 2004-2008 period.

S. 1046 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

S. 1046 would impose private-sector mandates on the owners of radio stations, television stations, and newspapers. The most costly mandate would be imposed on the owners of radio stations. Based on information from several industry experts, CBO expects that the cost of all the private-sector mandates in the bill would exceed the annual threshold for such mandates established by UMRA ($117 million in 2003, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

S. 1046 would void regulations issued by the FCC on June 2, 2003, pertaining to the ownership of television stations, radio stations, and newspapers. The bill would reinstate the regulations concerning ownership of multiple media outlets that were in effect before that date. S. 1046 also would direct the FCC not to grant or transfer a television license if that act would result in an entity owning or controlling television stations that reach an aggregate national audience of more than 35 percent. CBO estimates that those changes would not have a significant effect on federal spending.

In addition, sections 5 and 6 of the bill would clarify existing law regarding how the FCC reviews its regulations on broadcast ownership. Under the bill, the FCC would have to review its regulations every two years and hold at least five public hearings in different areas of the United States in conjunction with each review. Based on information provided by the FCC, CBO estimates that those provisions would cost less than $500,000 each year over the 2004-2008 period, subject to the availability of appropriated funds.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 1046 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 1046 would impose private-sector mandates as defined in UMRA on the owners of radio stations, television stations, and newspapers. The most costly mandate would be imposed on the owners of radio stations. Based on information from several industry experts, CBO expects that the cost of all the mandates in the bill would exceed the annual threshold for private-sector mandates established by UMRA ($117 million in 2003, adjusted annually for inflation).

Ownership of Radio Stations

The FCC adopted a Report and Order on media ownership on June 2, 2003. That decision would maintain the current limitation on radio ownership. At the same time, however, the FCC's decision would change the methodology for defining local radio markets to a market-based approach using Arbitron Metro rating boundaries. That change would reduce the number of stations a company may own in a local market. Consequently, many owners of radio stations would exceed the ownership limit if the FCC's new rules become effective. To avoid requiring those owners to sell their stations, the FCC's June 2 decision included a "grandfather" provision that would exclude those owners from the new ownership limit. Section 4 of this bill would revoke that "grandfather" provision. As a result, those owners of radio stations not in compliance with the local market caps under the new market definitions would be required to sell some properties within one year after enactment of this bill.

The cost of this mandate on owners of radio stations would be incurred in the form of diminished value for the stations they would be required to sell. Based on information from industry sources, CBO estimates that the cost would exceed the annual threshold for private-sector mandates. Bear, Stearns & Company estimates that owners of radio stations would be required to sell over 200 stations to comply with the removal of the "grandfather" provision. The consensus of industry experts is that the owners of those stations would be able to sell them only at prices considerably below recently recorded market prices. Two reasons are cited. First, the bill's mandate would create a buyer's market in which many stations would be on the market at the same time. The bargaining power of potential buyers would grow as the deadline approached for the owners of stations to meet the ownership limitations. Second, in some instances, current owners enjoy economic advantages in operating and marketing the clusters of stations that they own; potential new owners of some of those stations would be unlikely to capture such benefits and thus would not account for them in their offers.

Ownership of Commercial Television Broadcast Stations

Currently, a broadcast network can own and operate local broadcast stations that reach up to 35 percent of households nationwide. The FCC increased the ownership cap to 45 percent in its June 2 decision, and that new cap is likely to become effective within a few months. Section 3 of S. 1046 would restore the current national television ownership cap of 35 percent. The bill also would require any party that holds licenses for commercial television broadcast stations that exceed the 35 percent limit to sell some of their stations to comply with this limit within one year from the date of enactment.

According to the FCC, two companies would exceed the cap: Viacom Inc. (the owner of CBS) and News Corps. (the owner of Fox). Based on information from government and industry sources, CBO estimates that Viacom, Inc. and News Corps. would likely be able to sell their stations at a fair market value. Therefore, the cost of this mandate would be only the transaction costs involved in the sale.

Cross-Ownership of Media Outlets

Prior to June 2, 2003, the FCC prohibited companies from owning a television station and newspaper in a single market and limited the combined number of radio and television stations that companies could own in a single market. The FCC's June 2 decision relaxed those restrictions. As a result, under current law, companies will be able to request approval from the FCC to own additional cross-media properties. Section 7 of S. 1046 would reinstate the more restrictive broadcast-newspaper and radio-televison cross-ownership rules that were in effect on June 1, 2003, retroactively to June 2, 2003. The costs to the private-sector of reinstating the cross-ownership rules would be the loss in profits that would otherwise be earned by those who would purchase additional media properties under the relaxed restrictions. CBO has no basis for estimating that loss.

Further, if media owners purchase properties during the period that the FCC's relaxed restrictions are in effect that are not in compliance with the requirements of S. 1046, those owners would be required to sell such properties. Given the strong possibility that the more restrictive cross-media rules will be reinstated, it is very unlikely that any parties would apply for or receive licenses under the relaxed rules prior to enactment of this legislation.

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